



Minnesota Pollution Control Agency

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March 1, 2016

CERTIFIED MAIL NO. 7014 0150 0001 5358 4668
RETURN RECEIPT REQUESTED

Mr. Lawrence Sutherland, General Manager
U.S. Steel Corporation
U.S. Steel Minnesota Operations - Minntac
P.O. Box 417
Mountain Iron, Minnesota 55768-0417

RE: Enforcement Action - Administrative Penalty Order \$4,800
NPDES/SDS Permit No. MN0057207

The Minnesota Pollution Control Agency (MPCA) is issuing the enclosed Administrative Penalty Order (APO) to U.S. Steel Minntac for violations of Minnesota's environmental requirements. Please read the APO carefully. You must take action, within 30 days after you receive this letter.

You must:

- Complete the corrective actions, and
- Pay the enclosed invoice: \$4,800

The MPCA considered all the information U.S. Steel provided in its January 14, 2016, letter responding to the MPCA Alleged Violation Letter dated December 30, 2015. However, we did not make changes to the violations listed in the Alleged Violation Letter.

You have a right to formally dispute this action, within 30 days after receiving the APO. Instructions are in the RIGHT TO REVIEW section of the APO.

If you have questions or need assistance, contact John Thomas at 218-302-6616.

JT:pp

Enclosure

cc: Chrissy Bartovich, US Steel Minntac (w/enclosure)
Michael Schmidt, MPCA Attorney (w/enclosure)
Aaron Luckstein, MPCA (w/enclosure)
Scot Sokola, MPCA (w/enclosure)
Ann Moore, MPCA (w/enclosure)
Activity ID Pen 20150002@152971

**STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY**

ADMINISTRATIVE PENALTY ORDER

**U.S. Steel Corporation
U.S. Steel Minnesota Operations - Minntac
Mountain Iron, St. Louis County
P.O. Box 417
Mountain Iron, Minnesota 55768-0417**

**September 8, 2015, File Review
Minntac Tailings Basin**

This Administrative Penalty Order (APO) is issued by the Minnesota Pollution Control Agency (MPCA) Commissioner pursuant to Minn. Stat. § 116.072 for the violations listed below. This APO requires U.S. Steel Minntac (Regulated Party) to take action to correct the violations.

* * * * *

VIOLATIONS

1. NPDES/SDS Permit No. MN0057207 Chapter 2 Part 4.2 states:

Upon completion of construction of the Seepage Collection and Return System (SC&R) and commencement of its operation, all water formerly reporting to SD002 will be captured and pumped back into the tailings basin clear pool, effectively eliminating the discharge through the currently permitted outfall.

The Regulated Party reported on the cover letter submitted with the June 2015 DMRs for National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Permit No. MN0057207 (received July 21, 2015) that "Collected surface seepage from the southeast tailings side of the Tailings Basin perimeter dike was discharged through Outfall SD002 over a period of 4 hours on 6/16/15..." The DMR for the June 2015 reporting period indicated that 0.19 million gallons was discharged.

The Regulated Party completed construction of the SC&R in July 2010. The June 16, 2015, discharge at SD002 was therefore a violation of the permit.

After issuance of the above modified permit, Regulated Party and MPCA staff had a telephone conversation regarding the new requirements of the modified permit and its implication for any potential discharges associated with maintenance of the SC&R. The MPCA staff person informed the Regulated Party staff that any discharge associated with maintenance of the SC&R would be considered a violation of the permit.

On a separate occasion, MPCA staff informed Regulated Party staff that a proposed discharge of groundwater from a monitoring well as part of a draw down pump test would not be authorized by the permit and that the groundwater should be discharged to the tailings basin instead. This conversation occurred prior to the June 16, 2015, release and further indicates the consistent position of the MPCA on any proposed discharges.

2. NPDES/SDS Permit No. MN0057207 Chapter 7 Part 10.1 states:

The Permittee shall properly operate and maintain the systems used to achieve permit compliance. Proper operation and maintenance includes effective performance, adequate funding, adequate staffing and training, and adequate laboratory controls, including appropriate quality assurance procedures (Minnesota Rules, pt. 7001.0150, subp. 3.F)

NPDES/SDS Permit No. MN0057207 Chapter 7 Part 10.1 states:

The Permittee is responsible for insuring system reliability and shall install adequate backup or support systems to achieve permit compliance and prevent the discharge of untreated or inadequately treated waste. These systems may include alternative power sources, auxiliary treatment works and sufficient storage volume for untreated wastes. (Minnesota Rules, pt. 7001.0150, subp. 3.F)

The Regulated Party failed to take actions to prevent the discharge at SD002 during the SC&R maintenance activity completed by the Regulated Party on June 16, 2015.

3. NPDES/SDS Permit No. MN0057207 Chapter 7 Part 8.1 states:

The Permittee shall notify the Minnesota Department of Public Safety Duty Officer at (800)422-0798 or (651)649-5451 immediately of the discharge, accidental or otherwise, of any substance or material under its control which, if not recovered, may cause pollution of waters of the state. Notification is not required for a discharge of five (5) gallons or less of petroleum. (Minnesota Statutes, section 115.061)

On June 16, 2015, the Regulated Party discharged wastewater to waters of the state for which it was not authorized and failed to report the discharge immediately but reported the discharge on its monthly Discharge Monitoring Report on July 21, 2015.

* * * * *

CORRECTIVE ACTION REQUIRED

Pursuant to Minn. Stat. § 116.072, subd. 4, the Regulated Party is required to correct all the violations listed in this APO. The Regulated Party must document to the Commissioner, within 30 days after receipt of this APO and in writing, that the Regulated Party has taken the corrective actions listed below, unless the Regulated Party seeks review of this APO as described below (Right to Review).

Submit a written response indicating what measures will be taken to ensure compliance with the permit if/when maintenance of the SC&R occurs in the future. The response must indicate alternative measures for transferring wastewater to the tailings basin to avoid discharging at SD002.

....With receipt of the Regulated Party's letter to the MPCA, dated January 14, 2016, the requirement has been completed.

If the Regulated Party has any questions about the corrective action required, please contact the MPCA staff person identified below for assistance.

* * * * *

PENALTY: Four Thousand Eight Hundred Dollars (\$4,800)

The Regulated Party is hereby assessed a penalty of \$4,800 for the violations cited above. In determining the amount of the penalty, the Commissioner considered whether the violations were willful, whether the Regulated Party gained economic benefit, whether there is a history of past violations, the number of violations and the gravity of the violations, including the potential for damage to humans, animals, air, water, land, or other natural resources of the state.

Based on the serious nature of the violations, the Commissioner has determined that the penalty is:

NONFORGIVABLE

Payment of the Nonforgivable penalty amount of \$4,800 is to be by check or money order payable to the Minnesota Pollution Control Agency within 30 days after receipt of this APO, unless the Regulated Party seeks review of this APO. The check should be mailed to: Fiscal Services – 6th Floor, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; or to make an Electronic Payment, contact MPCA Fiscal Services at 651-757-2834.

* * * * *

RIGHT TO REVIEW

Pursuant to Minn. Stat. § 116.072, subds. 6 and 7, the Regulated Party has a right to seek review of this APO. The following description is intended only to aid the Regulated Party's understanding of the review process. The Commissioner strongly advises the Regulated Party to review the law itself carefully before proceeding.

The Regulated Party has a right to have an expedited hearing before an administrative law judge or to have a district court review this APO or the Commissioner's determination that the Regulated Party's corrective action was unsatisfactory.

EXPEDITED HEARING (Administrative Law Judge Hearing)-To obtain an expedited hearing, the following steps must be taken in a timely manner:

- the Regulated Party must file a request for review within 30 days after receipt of this APO or within 20 days after receipt of the Commissioner's determination that the Regulated Party's corrective action is unsatisfactory. The Regulated Party must ensure that any review request is received by the MPCA General Counsel before 4:30 p.m. on the last day of the applicable filing period. The filing period begins the first calendar day after the Regulated Party receives the APO or corrective action determination.
If the filing period ends on a weekend or holiday, the filing period is extended to close of business on the next day the MPCA is open for business;
- the request must be in writing;
- the request may be sent by U.S. mail or it may be delivered in person;
- the request must identify the APO or the corrective action determination that the Regulated Party wants to have reviewed and must specifically state the reasons why the Regulated Party wants the APO to be reviewed, including any facts upon which the Regulated Party relies;
- the Regulated Party must file the Regulated Party's written request for hearing by sending it to General Counsel, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; and
- to ensure expeditious processing of the request, please send copies of the request to: John Thomas, Minnesota Pollution Control Agency, 525 Lake Avenue, South, Suite 400, Duluth, Minnesota 55802 and to Manager, State Resource Division, Attorney General's Office, Bremer Tower, 445 Minnesota Street, Suite 900, St. Paul, Minnesota 55101-2127.

An expedited hearing by the Office of Administrative Hearings will be scheduled if the above steps have been completed in the time frames indicated.

OR

COURT REVIEW (District Court Hearing)-As an alternative to the expedited hearing procedure described above, the Regulated Party may file a petition in district court. In this case, the following steps must be taken:

- the Regulated Party must file a petition in district court within 30 days after receipt of this APO or within 20 days after receipt of the Commissioner's determination that the Regulated Party's corrective action is unsatisfactory;
- the Regulated Party must also serve a copy of the petition on: General Counsel, Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194;
- the Regulated Party must also serve a copy of the petition on: Manager, State Resource Division, Attorney General's Office, Bremer Tower, 445 Minnesota Street, Suite 900, St. Paul, Minnesota 55101-2127;

- the petition must identify the APO or corrective action determination that is the subject of the Petition and state the specific grounds upon which the Regulated Party challenges this APO or determination, including the facts upon which the Regulated Party bases each claim that the Regulated Party makes; and
- the Regulated Party must file a proof of service on the MPCA and the Attorney General with the clerk of the district court.

In the case of either an expedited hearing or a court review, if the Regulated Party's request is found to be frivolous, the Regulated Party may be required to pay the costs that the MPCA incurs in responding to the request for review.

This APO becomes a final order after 30 days unless the Regulated Party requests a hearing as provided above. If a hearing is held, the APO becomes a final order when the time to petition the Court of Appeals has expired or the Court of Appeals has ruled and upheld the APO. If the Regulated Party fails to comply with the APO, the MPCA may file the final order in district court where it will become a final judgment against the Regulated Party without further notice or additional proceedings. The MPCA may enforce and collect the judgment or a district court order against the Regulated Party and require payment of unpaid penalties, monetary damages, attorney fees, costs, and interest. The Attorney General may petition the district court for entry of the final order as an order of the district court that may be enforced against the Regulated Party in the same manner as a judgment of the district court.

**STATE OF MINNESOTA
POLLUTION CONTROL AGENCY**

March 1, 2016

Jeff Stollenwerk

This document has been electronically signed. [

Date

**Jeff Stollenwerk, Manager
Water Section
Industrial Division**

**CERTIFIED MAIL NO. 7014 0150 0001 5358 4668
RETURN RECEIPT REQUESTED**

Address Questions and Submittals Requested Above To:

John Thomas
Minnesota Pollution Control Agency
525 Lake Avenue South, Suite 400
Duluth, Minnesota 55804
218-302-6616